

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Application No.: 10/627,757
Attorney Docket No: Q76319

REMARKS

Upon entry of the Amendment, claims 1 and 4-5 are pending in the application. Claims 2 and 3 have been canceled. Claim 1 has been amended by incorporating the subject matter of canceled claims 2 and 3. Therefore, no new matter has been added.

Claims 1 and 4-5 remain rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Without admitting that the rejection is correct, Applicants have amended claim 1 by incorporating the subject matter of claims 2 and 3. Claims 2 and 3 were not rejected. In this regard, the amendment to claim 1 overcomes this rejection.

Claims 1-5 remain rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claim 1 presently recites a method for predicting an increased risk for onset of open angle glaucoma in a human subject.

Applicants respectfully submit that claim 1 need not recite a specific disease and/or the ethnic/racial status of the human subject. The method recited in claim 1 is not directed to diagnosing a particular variety of glaucoma in a certain ethnic/racial population. On the contrary, the method recited in claim 1 is directed to providing information of the risk factor to individuals who have one of the claimed mutations. Individuals who have one of the claimed mutations have a higher probability to be afflicted with open angle glaucoma, as compared to the general population. The presence of a patient who has the mutation but shows no symptoms of open angle glaucoma does not mean that the claimed method has provided a false positive or an

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incorrect assessment of the risk factor. Whether one of the claimed mutations is present or not, the claimed method predicts whether open angle glaucoma may be one of the diseases that the individual may be afflicted with in the future. In this regard, it is enough to predict whether the patient has an increased risk to being afflicted with open angle glaucoma in the future. It is not necessary to determine the relation between the claimed mutations with the particular type of glaucoma and the ethnic/racial status of the individual.

As a result, there is also no necessity to show a statistically significant number of individuals who presently shows sign of open angle glaucoma.

Claims 1-5 have remain rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Instead of the term “gene,” claim 1 has been amended to recite polynucleotide.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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